

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

| | | |
|----------------|---|--------------------|
| JERRY MCCRARY, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | No. 4:06CV1511 CEJ |
| |) | |
| JAMES PURKETT, |) | |
| |) | |
| Respondent. |) | |


MEMORANDUM AND ORDER

 This matter is before the Court on McCrary's Memorandum of Law in Support of his Petition for Writ of Habeas Corpus [#6]. McCrary filed a § 2254 habeas petition on October 16, 2006. The Court dismissed the petition without prejudice on November 29, 2006, because McCrary had not exhausted available state remedies. McCrary has now filed the instant document, which is actually a new habeas petition and should be filed as a new case. As a result, the Court will direct the Clerk to open a new case and to file McCrary's Memorandum of Law in Support of his Petition for Writ of Habeas Corpus as a Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254.

 Accordingly,

IT IS HEREBY ORDERED that the Clerk shall file McCrary's Memorandum of Law in Support of his Petition for Writ of Habeas Corpus as a Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 in a new case.

Dated this 23rd day of March, 2007.



CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE